



DEPARTMENT OF AGRICULTURE

Forest Service

Privacy Act of 1974; System of Records

AGENCY: Forest Service, U.S. Department of Agriculture.

ACTION: Notice of a modified System of Records.

SUMMARY: In accordance with the Privacy Act of 1974, the U.S. Department of Agriculture (USDA or Department) proposes to modify and reissue the current system of records entitled “Department of Agriculture, Forest Service, Mineral Lessees and Permittees.” This system allows the Forest Service Minerals and Geology program to support Forests and Grasslands to manage locatable minerals and mineral materials. This information helps the Agency meet its objectives to explore, develop, and produce mineral resources.

DATES: Submit comments on or before [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. This new system will be effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: You may submit comments, identified by docket number FS-2021-0003 by one of the following methods:

- Federal e-Rulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments;
- Email: Chad Hood for smaller notices, chad.hood@usda.gov; or

- Mail: Chad Hood, Geologist, Minerals and Geology Management, 1249 South Vinnell Way, Suite 200, Boise, ID 83709

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: For general questions and privacy issues please contact: U.S. Department of Agriculture's Forest Service, Minerals and Geology Management, Geologist, Chad Hood (208) 373-4190, 1249 South Vinnell Way, Suite 200, Boise, ID 83709; for privacy questions, please contact: Sullie Coleman, Chief Privacy Officer, by email at sullie.coleman@usda.gov or by telephone at (202) 604-0467.

SUPPLEMENTARY INFORMATION: The Privacy Act of 1974, as amended (5 U.S.C. 552a), requires agencies to publish in the *Federal Register* notice of new or revised systems of records maintained by the Agency. A system of records is a group of any records under the control of any agency from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to an individual.

The Forest Service proposes to modify a system of records, entitled "USDA/Forest Service-16 Mineral Lessees and Permittees System of Records," that will be used to maintain records of activities conducted by the Agency pursuant to its mission and responsibilities.

The Forest Service is modifying the system name to Mineral Operators and Activities and adding categories of individuals covered by the system; categories of records in the system; updating the way records are maintained; adding (#) routine uses and modifying (#) routine uses; and adding system managers for an existing Privacy Act system of records.

TITLE AND BUSINESS ADDRESS OF THE AGENCY OFFICIAL

RESPONSIBLE FOR THE SYSTEM OF RECORD: Chief Information Officer, U.S. Department of Agriculture's Forest Service, 1400 Independence Avenue, SW, Washington, DC 20250.

SYSTEM NAME AND NUMBER:

USDA/Forest Service-16 Mineral Lessees and Permittees System of Records.

Mineral Operators and Activities System, CSAM ID: 1075, External ID: 643, UII Code: 005-96-01-11-01-2137-00

SECURITY CLASSIFICATION:

Controlled Unclassified Information (CUI)

SYSTEM LOCATION:

All data is maintained in the National Resource Manager (NRM) General Support System (GSS) located at the National Information Technology Center (NITC) in Kansas City, Missouri. Paper records are located at the Regional Forester, Forest Supervisor, and District Ranger offices. The addresses for these locations are available on the Forest Service website, at <https://www.fs.usda.gov/organization>. The addresses for the Regional Foresters and Forest Supervisors are also listed in 36 C.F.R. Part 200, Subpart A; and

addresses for District Rangers are in the telephone directory of the applicable locality under the heading, United States Government, Department of Agriculture, Forest Service.

SYSTEM MANAGER:

The Director, Minerals and Geology Management, Forest Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW, Mailstop 1126, Washington, DC 20250; Regional Minerals Directors are located in the Regional Forester, Forest Supervisor; and District Ranger offices.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S. C. 4321 National Environmental Policy Act (NEPA);

Public Law 113-79 Agriculture Act 2014;

Public Law 94-588 National Forest Management Act of 1976;

36 C.F.R. 228 subpart A, Locatable Minerals;

36 C.F.R. 228 subpart C, Salable Minerals.

PURPOSE(S) OF THE SYSTEM:

The purpose of this system of records is to maintain records related to individuals or companies who have applied for or hold mineral material contract's or permit's issued by the Forest Service covering National Forest System lands; locatable mineral operators on National Forest System lands; and lessees and assignees of any mineral materials contract, permit, or locatable mineral operations. The Forest Service uses these records to ensure mining projects are administered and reclaimed in compliance with mining and environmental regulations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by the system include members of the public who have applied for or hold mineral material contracts or permits issued by the Forest Service covering National Forest System lands; locatable mineral operators on National Forest System lands; and lessees and assignees of any mineral materials contract, permit, or locatable mineral operations.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system includes documents that may contain the name, address , or email address of members of the public who have applied for or hold mineral permits, contracts, a plan of operations, or a notice of intent. The information consists of inter- and intra-agency, Secretarial, Presidential, and Congressional correspondence; correspondence to/from individuals covered by the system of records; notices of intent to operate; operating plans; evaluation of surface disturbance and related mitigation; reclamation plans and bonds; mineral evaluations; environmental reports; reports of mineral examinations and pleadings; permits; sale contracts; and authorized field contact for any minerals related activity.

RECORDS SOURCE CATEGORIES:

Information maintained in this system is provided by the members of the public and Agency staff personnel. Forest Service forms FS-2800-5 (OMB No. 0596-0022) and FS-2800-9 (OMB No. 0596-0081) are used to collect information.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, records contained in a system may be disclosed outside the Department as follows:

A. To the appropriate agency, whether Federal, State, local, Tribal, foreign, or other public authority responsible for enforcing, investigating, or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto when a record on its face, or in conjunction with other records, indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program, statute, or by regulation, rule, or order issued pursuant thereto, disclosure may be made if the information disclosed is relevant to any enforcement, regulatory, investigative, or prospective responsibility of the receiving entity.

B. To the Department of Justice, when the Agency—or any component thereof, or any employee of the Agency in his or her official capacity, or any employee of the Agency in his or her individual capacity where the Department of Justice has agreed to represent the employee, or the United States, in litigation, where the Agency determines that litigation is likely to affect the Agency or any of its components—is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice is deemed by the Agency to be relevant and necessary to the litigation; provided, however, that in each case, the Agency determines that disclosure of the records to the Department of Justice is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

C. To a Member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the written request of the constituent about whom the record is maintained.

D. To agency contractors, grantees, experts, consultants, or volunteers who have been engaged by the agency to assist in the performance of a service related to this system of records and who need to have access to the records in order to perform the activity. Recipients shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 USC 552a(m).

E. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

F. To the National Archives and Records Administration (NARA) or to the General Services Administration for records management inspection conducted under 44 U.S.C. 2904 and 2906.

G. To the news media and the public, with the approval of the Chief Privacy Officer in consultation with counsel, when there exists a legitimate public interest in the disclosure of the information, when disclosure is necessary to preserve confidence in the integrity of USDA, or when disclosure is necessary to demonstrate the accountability of USDA's officers, employees, or individuals covered by the system, except to the extent the Chief Privacy Officer determines that release of the specific information in the context of a particular case would constitute a clearly unwarranted invasion of personal privacy.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

All records are stored electronically or on paper in secure facilities in a locked drawer behind a locked door. The records may be stored on digital media. Each USDA mission area, agency, and staff office creates and maintains proper and adequate documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the Department. This documentation protects the legal and financial rights of the Government and of persons directly affected by the Department's activities (44 U.S.C. 3101). U.S.C. Title 7, Chapters 55 - 2204 state that the Secretary of Agriculture may conduct any survey or other information collection and employ any sampling or other statistical method that the Secretary determines is appropriate.

The Department is also authorized to obtain certain information under Sec. 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (44 U.S.C. 3516, Pub. L. No. 106-554) as well as Title 5 Part I Chapter 3 - 301, and 5 U.S.C. 552 § 552a.

See also: 5 U.S.C. Chapter 552; 44 U.S.C. Chapters 21, 29, 31, and 33 (Records Management); 18 U.S.C. 2071; 44 U.S.C. 3101 *et seq.*; 44 U.S.C. 3506; Title 7 CFR 2.37; 36 CFR Chapter 12, Subpart B; 36 CFR Part 1234, eGovernment Act of 2002 (Pub. L. 107-347, 44 U.S.C. Ch. 36); OMB Circular A-130; NARA General Records Schedules, and Forest Service Mission-specific records retention schedules approved by NARA for NARA Records Group 95.

POLICIES AND PRACTICES FOR RETRIEVABILITY OF RECORDS:

Records are maintained in accordance with Forest Service records management policy and NARA's General Records Schedule and/or NARA-approved records schedules for NARA Records Group 95. Records are maintained in categories organized by subject matter under the following file codes:

- 2800 – MINERALS AND GEOLOGY
- 2810 – “MINING CLAIMS”
- 2840 – “RECLAMATION”
- 2850 – “MINERAL MATERIALS”
- 2860 – “FOREST SERVICE AUTHORIZED PROSPECTING AND MINERAL COLLECTING”

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records covered by this Privacy Act System of Records Notices (SORN) are managed according to records retention schedules approved by NARA. Records schedules used to retain and manage records are found in Chapter 40 of Forest Service Handbook 6209.11 – Records Management Handbook. This Handbook is available on the Forest Service Website at <https://www.fs.usda.gov/about-agency/regulations-policies>. All unscheduled records—meaning records without a NARA-approved records retention schedule—are retained until a records retention schedule is approved by NARA. Once a schedule is approved, all existing records will be processed according to the requirements set forth in that schedule.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

When applicable, paper records are kept in a locked or secured office or office building, and/or retained in a Forest Service secured computer system and can only be accessed by authorized Forest Service employees. Department/Forest Service safeguards electronic records in this system according to applicable rules and policies, including all applicable

automated systems' security and access policies. The Forest Service has imposed strict controls to minimize the risk of compromising stored information. System access, including access to records stored in an Agency approved repository (such as Pinyon or its successor), is limited to individuals with appropriate clearances or permissions who need to know the information for performance of official duties.

The NRM applications, which houses the information in this system, have Oracle roles defined in the database. These roles define what level of access a user assigned that Oracle role may have. The User Management Application (UMA) is used to assign these roles, as well as to determining what subsets of the data—referred to as organizational units—a user may have access. UMA has an automated process to request and approve access to applications on the NRM General Support System. A user requests specific roles and organizational codes that allow access to specific subsets of data. The request is automatically forwarded to the requester's UMA Manager who approves or denies the request. The UMA manager is responsible for determining what level of access a given user requires to fulfill job responsibilities.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records contained in this system of records, or seeking to contest content, may submit a request in writing to the Forest Service FOIA/Privacy Act Officer (contact information at <https://www.dm.usda.gov/foia/poc.htm>). If an individual believes more than one Department component maintains Privacy Act records concerning him or her, the individual may submit the request to the Departmental Freedom of Information Act Officer, 1400 Independence Avenue, SW South Building Room 4104, Washington, DC 20250-0706, email: USDAFOIA@ocio.usda.gov.

The request should include a daytime phone number and email. Provide as much information as possible about the subject matter of the records you are requesting. This will help facilitate the search process.

If you are making a request for records about yourself, you may receive greater access by providing either a notarized statement or a statement signed under penalty of perjury stating that you are the person who you say you are.

Provide your full name, date, and either: (1) have your signature witnessed by a notary; or (2) include the following statement immediately above the signature on your request letter: "I declare under penalty of perjury that the foregoing is true and correct. Executed on [date]." Requests that do not contain the required declaration will be processed under FOIA, and, if records are found, you may not receive as much information, including information about you. If additional information is required to fulfill a Privacy Act request, you will be notified.

If you want records about yourself to be released to a third party (such as a law firm or other organization requesting records on your behalf), the third party may receive greater access if they have permission from you.

You will need a signed and dated statement that the Forest Service may release records pertaining to you. Include your name; date of birth; name of the person or organization to whom you want your records disclosed (where applicable); their contact information; list of records that may be released (all, emails, medical records, etc.). The person about whom the records will be released should include a statement indicating that they understand that knowingly or willingly seeking or obtaining access to records about another person under false pretenses and or without their consent is punishable by a fine of up to \$5,000.

Requests must be for access to existing records. The Forest Service FOIA Office will not create records for the purpose of responding to a FOIA or Privacy Act request.

FOIA excludes Federal agencies from its definition of persons permitted to make FOIA requests [*see* 5 U.S.C. 552(a)(3)(A) and 5 U.S.C. 551(2)]. To avoid confusion as to whether Federal employees are requesting information in their personal or official capacities, requests from Federal employees should be submitted using personal resources.

CONTESTING RECORDS PROCEDURES:

Any individual may contest information contained within a record in the system that pertains to him/her by submitting a written request to the system manager at the address above. Include the reason for contesting the record and the proposed amendment to the information with supporting documentation to show how the record is inaccurate.

NOTIFICATION PROCEDURES:

Information to individuals is provided via:

- NRM Privacy Impact Analysis on the Department Privacy Impact Analysis website, <https://www.usda.gov/home/privacy-policy/privacy-impact-assessments>.
- The *Federal Register* for System of Records Notices and legal authorities
- Forest Service-specific System of Records Notices are also published on the Forest Service website, <https://www.fs.fed.us/im/foia/pasystems.htm>.
- Forms associated with Privacy Act systems are approved through the Office of Management and Budget under the Paperwork Reduction Act (also cited in the *Federal Register*); the forms cite the Privacy Act.

Any individual may request general information regarding this system of records or information as to whether the system contains records pertaining to him/her. All inquiries pertaining to this system should be in writing, must name the system of records as set forth in the system notice, and must contain the individual's name, telephone number, address, and email address (see specific instructions above).

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None

HISTORY:

The Forest Service proposes to modify a system of records entitled “USDA/Forest Service-16 Mineral Lessees and Permittees System of Records” that will be used to maintain records of activities conducted by the Agency pursuant to its mission and responsibilities.

Dated: June 29, 2021.

Victoria Christiansen,

Chief, USDA Forest Service.

